

TEACHERS' RETIREMENT BOARD
BENEFITS AND SERVICES COMMITTEE

SUBJECT: Terms and Conditions for Intraplan Transfers
Under Chapter 802, Statutes of 2001 (SB 499)

ITEM NUMBER: 3

ATTACHMENT(S): 1

ACTION: X

MEETING DATE: December 4, 2002

INFORMATION:

PRESENTER: Ed Derman

BACKGROUND

Portability of pension benefits is a concern for individuals who have multiple employment situations during their career, including some members of the Defined Benefit (DB) Program of the State Teachers' Retirement Plan (STRP) administered by the California State Teachers' Retirement System (CalSTRS). Some DB Program members may have retirement credit with an out-of-state system for work that was performed in another state, and other members may have performed creditable service on a part-time basis that was covered under an alternative program in California such as the CalSTRS Cash Balance (CB) Benefit Program.

Currently, DB Program members who are eligible for a lump-sum distribution from a plan other than the STRP can roll over the distribution to CalSTRS for the purpose of purchasing credit under the DB Program. The CB Benefit Program also accepts rollovers from other plans. However, a DB Program member cannot receive a lump-sum distribution from the CB Benefit Program without first terminating all creditable service, whether the service is covered under the CB Benefit Program or the DB Program. Chapter 802, Statutes of 2001 (SB 499), which became effective in January 2002, makes available another vehicle for pension portability, namely an *intra* plan transfer (also referred to as an *administrative* transfer) from the CB Benefit Program to the DB Program. Under the provisions of Chapter 802, CalSTRS, as the plan administrator, can make an administrative transfer of assets and liabilities from the CB Benefit Program to the DB Program to consolidate a member's retirement coverage under a single program of the STRP. By law, members cannot have coverage under more than one plan for the same service (or, in the case of CalSTRS, under more than one program of the same plan).

As CalSTRS staff worked through the implementation process they found both procedural and policy issues that were not addressed by Chapter 802. Chapter 802 provides authority for DB Program members to elect to receive credit for service originally covered under the CB Benefit Program, and federal law addresses administrative transfers under the spin-off and merger provisions of the Internal Revenue Code. However, discussions with both CalSTRS' federal tax counsel and internal legal counsel indicated that a plan amendment adopted by the Teachers' Retirement Board (Board) would be required in order for CalSTRS to make an administrative transfer. Therefore, this agenda item is presented for the Board's action at this time.

DISCUSSION

There are both federal and state statutory provisions that address administrative transfers. Generally speaking, an administrative transfer is the movement of assets and liabilities from one employer plan to another plan of the same employer. In private industry this can be done for a group of people or on an individual basis to consolidate accruals under a defined contribution plan or to consolidate benefits under a defined benefit plan. At CalSTRS, an administrative transfer would be done on an individual basis pursuant to Chapter 802 for a member of the DB Program who elects to receive credit under the DB Program for service originally covered under the CB Benefit Program. The purpose for CalSTRS making an administrative transfer would be to consolidate the member's retirement benefit coverage under one program of the Plan. Such a transfer may also simplify administration of benefits in some instances.

The terms and conditions developed for intraplan transfers address three separate areas: 1) statutory terms and conditions, 2) terms and conditions related to federal provisions, and 3) internal administrative terms and conditions. All of the terms and conditions are stated in the *Recommendation* section below. The statutory terms and conditions cover the relevant provisions of the Teachers' Retirement Law that were amended by Chapter 802. These provisions set the basic framework for consolidating a member's benefit coverage, but do not include the detail that CalSTRS needs to accomplish the transfer of assets and liabilities.

The terms and conditions related to federal provisions set forth the requirements and limitations that will ensure CalSTRS makes administrative transfers in a manner consistent with federal provisions. The administrative terms and conditions reflect the practical aspect of CalSTRS implementing the intraplan transfer process and address the areas not covered in statutory or federal provisions.

The terms and conditions developed by staff have been identified as required for consistent application of the intraplan transfer provisions and to ensure that similarly situated members who elect to receive credit under the DB Program for service originally covered under the CB Benefit Program are treated in a like manner. Collectively, the terms and conditions will enable CalSTRS to comply with state and federal provisions and appropriately administer intraplan transfers.

RECOMMENDATION

Staff recommends the Board adopt terms and conditions for intraplan transfers for members who elect to receive credit under the DB Program for service originally covered under the CB Benefit Program. The suggested terms and conditions are stated below.

Statutory Terms and Conditions

- A member may elect to receive service credit under the Defined Benefit (DB) Program for service that was originally covered under the Cash Balance (CB) Benefit Program. A member who so elects shall be liable for payment of all contributions with respect to that service at the contribution rate for additional service credit, as adopted by the board, including any amount resulting from a difference in the contribution rates between the CB Benefit and DB Programs.

Explanation: The member contribution rate for creditable service under the DB Program is 8 percent of creditable compensation. The participant contribution rate under the CB Benefit Program is 4 percent of salary, unless a different rate is specified in a collective bargaining agreement. Employer contributions to the CB Benefit Program must be at a minimum rate of 4 percent of the participant's salary and are credited to the member's CB account. In the event of an administrative transfer, both participant and employer contributions would be transferred and would be applied to the cost of crediting service under the DB Program.

- A member's election to receive service credit under the DB Program for service originally covered under the CB Benefit Program must be made in writing on a form prescribed by CalSTRS.

Explanation: CalSTRS will design a form specifically for the administrative transfer process to ensure that pertinent information is clearly communicated to members before they elect to receive credit under the DB Program. This will also ensure that CalSTRS receives all data required from the member and the employer before an administrative transfer is made.

- A member must terminate all service subject to coverage under the CB Benefit Program prior to electing to purchase credit under the DB Program for any service originally covered under the CB Benefit Program.

Explanation: This is a required condition because the purpose for an administrative transfer is to consolidate benefit coverage under one program. If some service were still being covered under the CB Benefit Program and other service under the DB Program, there would not be a consolidation of benefits.

- A member will cease to be eligible for a benefit under the CB Benefit Program for service originally covered under the CB Benefit Program that is credited under the DB Program. A member may not have the same service covered simultaneously under both the DB and CB Benefit Programs.

Explanation: The Teachers' Retirement Law prohibits a member from receiving credit under the DB Program if the member would continue to receive credit for the same service or time in the CB Benefit Program or another retirement system.

- A member's service credit under the DB Program may not exceed 1.000 for any one school year. Service that was originally covered under the CB Benefit Program because the member's service credit in a year exceeded 1.000 may not be credited under the DB Program.

Explanation: The Teachers' Retirement Law limits service credit under the DB Program in any one school to no more than 1.000.

Terms and Conditions Related to Federal Provisions

- CalSTRS may make an administrative transfer of funds from the CB Benefit Program to the DB Program in order to consolidate a member's benefits under a single program of the State Teachers' Retirement Plan. If an administrative transfer is made, it must be made for all service originally covered under the CB Benefit Program for which the member is eligible to elect to receive credit under the DB Program.

Explanation: CalSTRS' federal tax counsel advised that the purpose for CalSTRS making an administrative transfer would be to consolidate benefits under the DB Program and anything other than a complete transfer should not be allowed. Staff had some concern regarding this because members under other circumstances are permitted to make partial service credit purchases. However, we were advised that members could make a choice to receive credit under the DB Program for service originally covered under the CB Benefit Program (which would require that CalSTRS transfer the total balance of credits in their CB Benefit Program account); or members could elect to not receive such credit.

- The member must not have a balance of credits in his or her CB Benefit Program account after the administrative transfer process is complete.

Explanation: This condition reiterates the immediately preceding condition and makes a clear statement of the fact that an administrative transfer must be made on an "all or nothing" basis.

- CalSTRS may make an administrative transfer of funds with respect to a member of the DB Program only if the member is not otherwise entitled to a distribution from the CB Benefit Program. In effect, the member must not be performing creditable service that is covered under the CB Benefit Program and must be performing creditable service that is covered under the DB Program.

For purposes of determining whether or not a member is performing creditable service that is covered under the DB Program, CalSTRS will refer to the latest monthly reports submitted by employers. Current creditable service and creditable compensation under the DB Program must be reflected on an employer report for the member. In addition, the member's employer must certify on a form prescribed by CalSTRS that the member has not terminated employment.

Explanation: If a member receives a distribution under the CB Benefit Program, federal law dictates that the funds received would be eligible for rollover to another qualified plan and if not rolled over would be subject to mandatory tax withholding. In order to comply with federal requirements, CalSTRS could not make an administrative transfer if the member were otherwise entitled to a distribution. In order to be eligible for a distribution, the member would need to have terminated employment, would not be performing any creditable service under the CB Benefit Program and also would not be performing any creditable service under the DB Program. In this instance, the member could request a distribution and could rollover the funds to the DB Program.

Administrative Terms and Conditions

- Prior to an administrative transfer, the member's current employer must certify that the member is performing creditable service, that the service is covered under the DB Program and is not covered under the CB Benefit Program, and that the member has not terminated employment.

Explanation: The purpose for this condition is to ensure that CalSTRS complies with the federal restriction to not make an administrative transfer if the member is otherwise entitled to a distribution from the Plan.

- Service that was covered under the CB Benefit Program because the member's total service in a school year exceeded 1.000 may not be covered under the DB Program.

Explanation: This condition is related to the statutory provision that limits service credit in any one school year to 1.000. Prior to July 1, 2002, a member of the DB Program could have service that exceeded 1.000 in a school year (usually referred to as "overtime") covered under the CB Benefit Program. If a member elects to receive credit under the DB Program for service originally covered under the CB Benefit Program, CalSTRS will need to ensure that the member does not receive credit for service that was overtime. If the member has CB Benefit Program credits that accrued from overtime, the credits can be applied to the cost of other service the member is eligible to purchase under the DB Program. If not applied to the purchase of service, the credits will be transferred to the member's Defined Benefit Supplement (DBS) Program account.

- It may occur that the balance of credits in a member's CB Benefit Program account is not sufficient to cover the cost under the DB Program of all service originally covered under the CB Benefit Program. In this instance, credit for service originally covered under the CB Benefit Program may be prorated to enable the member to receive credit under the DB Program only for the service that can be covered by the available balance of credits. The member would retain eligibility to purchase the remaining service originally covered under the CB Benefit Program using other funds.

Explanation: This term for administrative transfers ensures appropriate flexibility in situations where the balance of credits in a member's CB Benefit Program account is not sufficient to cover the total cost of crediting under the DB Program all of the service originally covered under the CB Benefit Program.

- If a member of the DB Program has a balance of credits in his or her CB Benefit Program account, the member may not purchase credit under the DB Program for service originally covered under the CB Benefit Program without an administrative transfer of funds by CalSTRS. This will ensure that the member does not have credit under both programs for the same service, which is prohibited under state law.

Explanation: If a member received credit under the DB Program for service originally covered under the CB Benefit Program, in effect the member would have the same service covered under both programs. The intent of this condition is to ensure that CalSTRS complies with the statutory restriction in Section 22802 that prohibits a member from having the same service covered under both the DB Program and the CB Benefit Program at the same time.

- CalSTRS may make an administrative transfer of funds from the CB Benefit Program to the DB Program for the purpose of crediting under the DB Program service that was originally covered under the CB Benefit Program. The balance of credits in a member's CB Benefit Program account that exceed the amount required to credit under the DB Program service that was originally covered under the CB Benefit Program may be included in an administrative transfer if applied to the purchase of other service credit.

Explanation: This condition will ensure that CalSTRS complies with the advice from our federal tax counsel to not make partial transfers from the CB Benefit Program and will enable the member to maximize the credits in his or her CB Benefit Program account.

- The balance of credits in a member's CB Benefit Program account that are included in an administrative transfer must be applied first to the consolidation of the member's benefits under the DB Program. Remaining credits may be applied to the cost of other service the member is eligible to purchase under the DB Program.

Explanation: This condition clarifies that the primary purpose for an administrative transfer is the consolidation of benefits under the DB Program. It acknowledges that a member's CB Benefit Program account balance may be greater than the amount required to credit under the DB Program service originally covered under the CB Benefit Program. This could occur if the member's CB Benefit Program account balance includes funds rolled over from another eligible retirement plan. This condition permits the member to apply such credits to the cost of other service the member is eligible to purchase under the DB Program.

- After the administrative transfer process is complete, a balance of credits may not remain in the member's CB Benefit Program account. Any amount not transferred for the purpose of

crediting under the DB Program service originally covered under the CB Benefit Program, or not applied to the cost of other service the member is eligible to purchase under the DB Program, must be transferred to the member's DBS Program account.

Explanation: This condition ensures CalSTRS will not make partial transfers, and under the DBS Program provides benefits comparable to those previously available to the member under the CB Benefit Program.

- Funds previously transferred to a member's CB Benefit Program account from eligible retirement plans pursuant to subdivision (b) of Section 26506 of the Education Code may be included in an administrative transfer pursuant to these terms and conditions.

Explanation: Section 26506 of the Education Code permits a CB Benefit Program participant to rollover funds from other eligible retirement plans to the extent the rollover is permitted under federal law. This condition makes it clear that the source of funds in a member's CB Benefit Program account are not relevant to whether or not the funds can be included in an administrative transfer.

- Once CalSTRS has completed an administrative transfer on behalf of a member, the transfer may not be reversed.

Explanation: This condition is included to state that CalSTRS does not intend to make reverse administrative transfers from the DB Program to the CB Benefit Program for any reason. To do so would undermine the stated purpose for an administrative transfer, which is to consolidate benefits under the DB Program.

Only an individual whose basis of employment is less than 50 percent of full time can participate in the CB Benefit Program. If a CB Benefit Program participant's basis of employment changes to 50 percent or more of full time, the service must be covered under the DB Program. However, a CB Benefit Program participant may at any time elect to have future creditable service covered under the DB Program instead of the CB Benefit Program regardless of the basis of employment. The election is irrevocable until the member terminates employment and receives a refund of accumulated retirement contributions.

Therefore, it can be assumed that members who elect to receive credit under the DB Program for service originally covered under the CB Benefit Program have a basis of employment that is at least 50 percent of full time, or they elected to have creditable service covered under the DB Program. In either case, credits would not accrue under the CB Benefit Program for future service once service was being covered under the DB Program.

In the event future changes in statute or administrative requirements necessitate amendment of these terms and conditions to preserve the integrity of the State Teachers' Retirement Plan, appropriate revisions will be made and the revised terms and conditions will be presented to the Board for adoption.

PROPOSED
RESOLUTION
OF THE
TEACHERS' RETIREMENT BOARD
BENEFITS AND SERVICES COMMITTEE

SUBJECT: Adoption of Terms and Conditions for Intraplan Transfers

RESOLUTION NO. _____

WHEREAS, portability of pension benefits is of concern to the Teachers' Retirement Board and members of the State Teachers' Retirement Plan, and

WHEREAS, Plan members who are employed to perform creditable service that is covered under the Defined Benefit Program of this Plan may also have prior service that was covered under the Cash Balance Benefit Program of the Plan, and

WHEREAS, Plan members who receive distributions from outside this Plan can rollover funds into the Plan to purchase service credit under the Defined Benefit Program, and

WHEREAS, Plan members who are employed to perform creditable service that is covered under this Plan are not eligible to receive a distribution from the Plan while so employed, and

WHEREAS, Section 22802 of the California Education Code permits members of the Defined Benefit Program to elect to receive credit for service originally covered under the Cash Balance Benefit Program, and

WHEREAS, intraplan (administrative) transfers are not prohibited under federal law and are addressed under the federal provisions for spin-offs and mergers, and

WHEREAS, CalSTRS has been advised that it would be appropriate to make intraplan (administrative) transfers under specified conditions, and

WHEREAS, members are prohibited from having credit under more than one plan for the same service and are prohibited from having credit under both the Defined Benefit Program and the Cash Balance Benefit Program for the same service; therefore, be it

RESOLVED that the Benefits and Services Committee recommend the Teachers' Retirement Board adopt the attached terms and conditions for intraplan (administrative) transfers for members of the Defined Benefit Program who elect to receive credit under the Defined Benefit Program for service originally covered under the Cash Balance Benefit Program.

Adopted by:
Benefits and Services Committee

Ratified by:
Teachers' Retirement Board

On December 5, 2002

JACK EHNES
Chief Executive Officer

Terms and Conditions for Intraplan (Administrative) Transfers

1. A member may elect to receive service credit under the Defined Benefit (DB) Program for service that was originally covered under the Cash Balance (CB) Benefit Program. A member who so elects shall be liable for payment of all contributions with respect to that service at the contribution rate for additional service credit, as adopted by the board, including any amount resulting from a difference in the contribution rates between the CB Benefit and the DB Programs.
2. A member's election to receive service credit under the DB Program for service originally covered under the CB Benefit Program must be made in writing on a form prescribed by CalSTRS.
3. A member must terminate all service subject to coverage under the CB Benefit Program prior to electing to purchase credit under the DB Program for any service originally covered under the CB Benefit Program.
4. A member will cease to be eligible for a benefit under the CB Benefit Program for service originally covered under the CB Benefit Program that is credited under the DB Program. A member may not have the same service covered simultaneously under both the DB and CB Benefit Programs.
5. A member's service credit under the DB Program may not exceed 1.000 for any one school year. Service that was originally covered under the CB Benefit Program because the member's service credit in a year exceeded 1.000 may not be credited under the DB Program.
6. CalSTRS may make an administrative transfer of funds from the CB Benefit Program to the DB Program in order to consolidate a member's benefits under a single program of the State Teachers' Retirement Plan. If an administrative transfer is made, it must be made for all service originally covered under the CB Benefit Program for which the member is eligible to elect to receive credit under the DB Program.
7. The member must not have a balance of credits in his or her CB Benefit Program account after the administrative transfer process is complete.
8. CalSTRS may make an administrative transfer of funds with respect to a member of the DB Program only if the member is not otherwise entitled to a distribution from the CB Benefit Program. In effect, the member must not be performing creditable service that is covered under the CB Benefit Program and must be performing creditable service that is covered under the DB Program.

For purposes of determining whether or not a member is performing creditable service that is covered under the DB Program, CalSTRS will refer to the latest monthly reports submitted by employers. Current creditable service and creditable compensation under the DB Program must be reflected on an employer report for the member. In addition, the member's employer must certify on a form prescribed by CalSTRS that the member has not terminated employment.

9. Prior to an administrative transfer, the member's current employer must certify that the member is performing creditable service, that the service is covered under the DB Program and is not covered under the CB Benefit Program, and that the member has not terminated employment.
10. Service that was covered under the CB Benefit Program because the member's total service in a school year exceeded 1.000 may not be covered under the DB Program.
11. It may occur that the balance of credits in a member's CB Benefit Program account is not sufficient to cover the cost under the DB Program of all service originally covered under the CB Benefit Program. In this instance, credit for service originally covered under the CB Benefit Program may be prorated to enable the member to receive credit under the DB Program only for the service that can be covered by the available balance of credits. The member would retain eligibility to purchase the remaining service originally covered under the CB Benefit Program using other funds.
12. If a member of the DB Program has a balance of credits in his or her CB Benefit Program account, the member may not purchase credit under the DB Program for service originally covered under the CB Benefit Program without an administrative transfer of funds by CalSTRS. This will ensure that the member does not have credit under both programs for the same service, which is prohibited under state law.
13. CalSTRS may make an administrative transfer of funds from the CB Benefit Program to the DB Program for the purpose of crediting under the DB Program service that was originally covered under the CB Benefit Program. The balance of credits in a member's CB Benefit Program account that exceed the amount required to credit under the DB Program service that was originally covered under the CB Benefit Program may be included in an administrative transfer if applied to the purchase of other service credit.
14. The balance of credits in a member's CB Benefit Program account that are included in an administrative transfer must be applied first to the consolidation of the member's benefits under the DB Program. Remaining credits may be applied to the cost of other service the member is eligible to purchase under the DB Program.
15. After the administrative transfer process is complete, a balance of credits may not remain in the member's CB Benefit Program account. Any amount not transferred for the purpose of crediting under the DB Program service originally covered under the CB Benefit Program, or not applied to the cost of other service the member is eligible to purchase under the DB Program, must be transferred to the member's Defined Benefit Supplement account.

16. Funds previously transferred to a member's CB Benefit Program account from eligible retirement plans pursuant to subdivision (b) of Section 26506 of the Education Code may be included in an administrative transfer pursuant to these terms and conditions.
17. Once CalSTRS has completed an administrative transfer on behalf of a member, the transfer may not be reversed.